

ATTACHMENT 5

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

-----x
IN RE DA VINCI SURGICAL ROBOT Lead Case No.
ANTITRUST LITIGATION, 3 :21-cv-03825-VC

THIS DOCUMENT RELATES TO:

ALL CASES

-----x
SURGICAL INSTRUMENT SERVICE Case No.
COMPANY, INC., 3 :21-cv-03496-VC

Plaintiff,

vs.

INTUITIVE SURGICAL, INC.,

Defendant.

-----x
REMOTE VIDEOTAPED DEPOSITION BY VIRTUAL ZOOM OF
DAVID ROSA
Monday, May 1, 2023

Reported By: Lynne Ledanois, CSR 6811

Job No. 5892696

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10 SURGICAL INSTRUMENT SERVICE Case No.
11 COMPANY, INC., 3 :21-cv-03496-VC

12 Plaintiff,

13 vs.

14 INTUITIVE SURGICAL, INC.,
15 Defendant.
16 -----x

17 Videotaped deposition of DAVID ROSA, taken
18 in Sunnyvale, California, commencing at 8:11 a.m.,
19 on Monday, May 1, 2023 before Lynne Ledanois,
20 Certified Shorthand Reporter No. 6811

21 * * *

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20 ALSO PRESENT:
21 Alex Hatoff, Videographer
22

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1 purchased, the revenues from those purchases are
2 booked in the years the EndoWrists are purchased;
3 correct?

4 A Let's see. Again, not being an accountant,
5 but because those are not leased, my understanding is
6 those are, again, more of a routine transaction.

7 Q So if a robot was bought in 2019 and a
8 separate EndoWrist purchased in 2020 and 2021, the
9 revenue from the robot sale would be booked in 2019
10 and the revenue from the EndoWrist sales would be
11 booked in 2020 and 2021; correct?

12 A Provided it was an outright acquisition, not
13 some sort of lease arrangement or AMP or something
14 else, then I believe what you said is correct.

15 Q Is it fair to say that Intuitive does not
16 attempt to estimate the lifetime cost of the system,
17 including the EndoWrists, when it's first inquired?

18 A I am not sure I agree with that.

19 Q How?

20 A So any sort of pro forma, any kind of return
21 on investment analysis is going to look at the
22 lifetime costs of that investment and the -- you know,
23 the entirety of the -- sort of the profit side, the
24 cost side and what is the overall value of it.

25 And that should be done over the lifetime

1 of it.

2 Q But to do that, you would have to know how
3 much surgeries were being performed with that
4 da Vinci; correct, which means how many EndoWrists
5 they would be purchasing; is that right?

6 A Well, you certainly in this kind of analysis
7 in the way a hospital will develop a business plan
8 will be to estimate which procedures, how many of
9 them, the cost of those procedures, the benefits, the
10 value to those procedures. It will be a pretty
11 structured P&L, if you will, for that program.

12 Q And that's a cost analysis the hospital
13 would do; correct?

14 A They -- yes, ultimately they are the ones
15 that have to make the decision obviously about the
16 acquisition and so they're going to want to know what
17 is its financial profile.

18 Q How do you know what cost analysis the
19 hospitals perform on their own?

20 A As we go through the sales process, then we
21 can share with them our data because we have quite a
22 bit of data that's been collected over the years. And
23 they will use that oftentimes in their models and if
24 will be a shared back and forth.

25 Q Do some hospitals do their own analysis

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1 beyond sort of accepting Intuitive's analysis?

2 A Everything that I'm aware of is kind of a --
3 has been a mutual thing. But ultimately they are
4 going to want to make sure that they have put their,
5 you know, analytic sort of prowess and their depth of
6 understanding and their numbers on that analysis,
7 because that's the one that they're going to hold up
8 in front of the board or whomever to approve the
9 transition.

10 Q Has Intuitive done any studies to
11 determine if this cost analysis you mentioned
12 accurately predicts each hospital's actual total
13 cost of operating the da Vinci?

14 A Let's see. You're asking have we done any
15 work to see whether or not the analyses that hospitals
16 have done are kind of true or hold water?

17 Q Well, it's not just the hospitals have
18 done, that Intuitive has done.

19 When you talked about the cost analysis in
20 Paragraph 14 --

21 A Yes.

22 Q -- it implies that it's a cost analysis
23 done by Intuitive.

24 So I'm asking you if Intuitive has done
25 any studies to determine if this cost analysis

1 you're talking about accurately predicts each
2 hospital's actual total cost of operating the
3 da Vinci?

4 MR. RUBY: I object to the form of the
5 question. You can go ahead.

6 THE WITNESS: So we have done a lot of
7 cost analysis looking at -- you can take databases
8 that are available that are more kind of national
9 averages and you can do a bunch of work there.

10 If you -- then if you were to say, hey, a
11 particular hospital wants to better understand say
12 their cost profile, we do work with them, we'll sign
13 an agreement, a data sharing agreement, and we will
14 get their data and they will give us their data.

15 We'll do an analysis of those data and it
16 includes everything. So costs, OR time, all the
17 outcomes that are connected to the surgeries and
18 look very -- it's a very detailed analysis that
19 ultimately we'll try to validate, you know, the
20 overall kind of P&L, if you will, of a robotic
21 program.

22 And so we can use national data for kind
23 of directional data but use custom, you know,
24 hospital-specific data to really underscore the
25 financials for that particular hospital.

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I, LYNNE M. LEDANOIS, a Certified
Shorthand Reporter of the State of California, do
hereby certify:

That the foregoing proceedings were taken
before me at the time and place herein set forth;
that a record of the proceedings was made by me
using machine shorthand which was thereafter
transcribed under my direction; that the foregoing
transcript is a true record of the testimony given.

Further, that if the foregoing pertains to
the original transcript of a deposition in a Federal
Case, before completion of the proceedings, review
of the transcript [X] was [] wasn't requested.

I further certify I am neither financially
interested in the action nor a relative or employee
of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date
subscribed my name.

Dated: May 2, 2023

Lynne Marie Ledanois

LYNNE MARIE LEDANOIS

CSR No. 6811